



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0150; FRL-9945-62-Region 4]

Air Quality Plans; North Carolina; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of the State Implementation Plan (SIP) submission, submitted by the State of North Carolina, through the Department of Environmental Quality, formerly the Department of Environment and Natural Resources, Division of Air Quality (DAQ), on March 18, 2014, for inclusion into the North Carolina SIP. This final action pertains to the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2010 1-hour sulfur dioxide (SO₂) national ambient air quality standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an “infrastructure SIP submission.” DAQ certified that the North Carolina SIP contains provisions that ensure the 2010 1-hour SO₂ NAAQS is implemented, enforced, and maintained in North Carolina. EPA has determined that the North Carolina’s infrastructure SIP submission, provided to EPA on March 18, 2014, satisfies certain required infrastructure elements for the 2010 1-hour SO₂ NAAQS.

DATES: This rule will be effective [insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0150. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Notarianni can be reached via electronic mail at notarianni.michele@epa.gov or via telephone at (404) 562-9031.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On June 22, 2010 (75 FR 35520), EPA revised the primary SO₂ NAAQS to an hourly standard of 75 parts per billion (ppb) based on a 3-year average of the annual 99th percentile of 1-

hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2010 1-hour SO₂ NAAQS to EPA no later than June 2, 2013¹.

In a proposed rulemaking published on February 25, 2016, EPA proposed to approve North Carolina's 2010 1-hour SO₂ NAAQS infrastructure SIP submission submitted on March 18, 2014, with the exception of the PSD permitting requirements for major sources of section 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4), and state boards requirements of section 110(a)(2)(E)(ii).² *See* 81 FR 9398. The details of North Carolina's submission and the rationale for EPA's actions are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before March 28, 2016. EPA received no comments on the proposed action.

II. Final Action

With the exception of the PSD permitting requirements for major sources of section 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II)

¹ Today, EPA is providing clarification for an inadvertent typographical error that was included in the February 25, 2016, proposed rulemaking, for this final action. In the February 25, 2016, proposed rulemaking it was stated that the 2010 1-hour SO₂ NAAQS infrastructure SIPs were due no later than June 22, 2013. The 2010 1-hour SO₂ NAAQS infrastructure SIPs were actually due to EPA from states no later than June 2, 2013.

² On November 3, 2015, in a previous rulemaking, EPA approved the requirements for state boards for North Carolina in relation to the 2010 SO₂ NAAQS. *See* 80 FR 67645.

(prongs 1 through 4), and state boards requirements of section 110(a)(2)(E)(ii), EPA is taking final action to approve North Carolina's infrastructure submission submitted on March 18, 2014, for the 2010 1-hour SO₂ NAAQS. EPA is taking final action to approve portions of North Carolina's infrastructure SIP submission for the 2010 1-hour SO₂ NAAQS because the submission is consistent with section 110 of the CAA.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the

U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: April 14, 2016.

Heather McTeer Toney

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II— North Carolina

2. Section 52.1770(e) is amended by adding a new entry “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO₂ NAAQS” at the end of the table to read as follows:

§ 52.1770 Identification of plan.

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(e) * * *

EPA-Approved North Carolina Non-Regulatory Provisions

Provision	State effective date	EPA approval date	Federal Register citation	Explanation
*	* *	*	*	* *
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO ₂ NAAQS	3/18/2014	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication in <u>Federal Register</u>]	With the exception of the PSD permitting requirements for major sources of sections 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, 3, and 4), and the state board

				requirements of section 110(E)(ii).
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[FR Doc. 2016-09587 Filed: 4/25/2016 8:45 am; Publication Date: 4/26/2016]